

TENNESSEE REAL ESTATE COMMISSION MINUTES
June 4-5, 2008

The Tennessee Real Estate Commission convened on June 4, 2008, at 9:06 a.m., in Room 160, Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee. **The following Commission Members were present: Chairman Charles Haynes, Vice Chairman William "Bear" Stephenson, Commissioner Valerie Joh, Commissioner David Flitcroft, Commissioner Grover Collins, Commissioner Wendell Alexander, Commissioner Gary Cunningham, and Commissioner Isaac Northern. Commissioner Carol Tate joined the meeting at 1:20 p.m. Others Present: Eve Maxwell, Executive Director, Kathryn Wiseman, Assistant General Counsel, Mandy Spencer, Paralegal, and Kelly McDermott, Administrative Secretary.**

The first order of business was the adoption of the agenda (**Exhibit 1**) for the June 2008 Commission meeting. **Commissioner Alexander made a motion to adopt the June 2008 agenda; seconded by Commissioner Joh; unanimous vote; motion carried.**

Chairman Haynes requested in the future all formal hearings should be scheduled for the second day of the meeting.

The next order of business was the approval of the minutes from the May 2008 meeting (**Exhibit 2**). **Vice-Chairman Stephenson made a motion to approve the May 2008 minutes; seconded by Commissioner Alexander; unanimous vote; motion carried.**

Legal Report, Kathryn Wiseman, Staff Attorney (Exhibit 3)

- 1. 2006038561 – Commissioner Northern made a motion to dismiss; seconded by Commissioner Flitcroft; opened to discussion; Commissioner Northern withdrew his motion; Commissioner Flitcroft withdrew his second; Commissioner Joh suggested the complaint be deferred so Commissioner Northern may review it.; no vote.**
- 2. 2007072141 &**
- 3. 2007069521 – Commissioner Joh made a motion to dismiss; seconded by Vice-Chairman Stephenson; vote: 6 yes; Commissioner Alexander abstained; motion carried.**
- 4. 2007049121 – Commissioner Cunningham made a motion to accept staff's recommendation to dismiss; seconded by Commissioner Joh; unanimous vote; motion carried.**
- 5. 2007072741 – Commissioner Northern made a motion to dismiss with a Letter of Warning; seconded by Commissioner Cunningham; vote: 6 yes, 2 no; motion carried.**
- 6. 2007060751 – Commissioner Northern made a motion to defer the complaint; seconded by Vice-Chairman Stephenson; unanimous vote; motion carried.**

7. 2007059531 – Commissioner Joh made a motion to dismiss; seconded by Vice-Chairman Stephenson; unanimous vote; motion carried.
8. 2007060351 – Vice-Chairman Stephenson made a motion to issue a Consent Order with a civil penalty of \$1,000.00. At the end of 30 days if the respondent has not paid the civil penalty, the file will be closed and flagged for reapplication. If the respondent reapplies, they must pay the civil penalty before they will be allowed to be relicensed; seconded by Commissioner Collins; unanimous vote; motion carried.
9. 2006037601 – Commissioner Flitcroft made a motion to send an auditor to the firm to investigate this complaint; seconded by Commissioner Alexander; opened to discussion; vote: 5 yes, 3 no; motion carried.
10. 2007063081 – Commissioner Joh made a motion to dismiss; seconded by Commissioner Collins; Vote: 6 yes; Commissioner Flitcroft abstained; motion carried.
11. 2007064581 – Commissioner Joh made a motion to dismiss; seconded by Vice-Chairman Stephenson; unanimous vote; motion carried.
12. 2007069571 – Commissioner Joh made a motion to dismiss; seconded by Vice-Chairman Stephenson; unanimous vote; motion carried.
13. 2007070861 – Commissioner Joh made a motion to dismiss; seconded by Commissioner Collins; unanimous vote; motion carried.
14. 2007062211 – Commissioner Flitcroft made a motion to send the Consent Order to the respondent's correct address and await a response; seconded by Commissioner Collins; opened to discussion; Commissioner Northern offered a friendly amendment to the motion to procure more information from the complainant before sending it to the respondent; Commissioner Flitcroft and Commissioner Collins accepted the friendly amendment to their motions; unanimous vote; motion as friendly amended carried.
15. 2007052511 – Commissioner Tate had previously reviewed the complaint. Commissioner Alexander made a motion to defer the complaint until Commissioner Tate is present; seconded by Commissioner Joh; unanimous vote; motion carried.

Commissioner Flitcroft made a motion to have all past disciplinary actions with negative outcomes against a respondent put on the legal report; seconded by Commissioner Alexander; opened to discussion; vote: 7 yes, 1 no; motion carried.

The Commission stood in recess at 10:01 a.m. to conduct a formal hearing in the matter of Krystal Lee Walker, Docket No 12.18-098768A. The Commission voted to revoke Ms. Walker's license and issue a Consent Order with a civil penalty of \$2,000.00 and requiring the respondent to pay the court costs of the formal hearing.

The Commission reconvened at 11:06 a.m. for regular business at the conclusion of the formal hearing.

The Commissioners discussed the real estate climate in their respective markets.

The Commission discussed the Consent Order Log and Legal File Review prepared by the legal division.

Chairman Haynes recessed the meeting for lunch at 11:35 a.m. The meeting reconvened at 1:20 p.m. Commissioner Tate entered the meeting when it reconvened.

Steve Majchrzak, Assistant Commissioner of Regulatory Boards, addressed the Commission regarding the move of the offices of the Division of Regulatory Boards to the Andrew Johnson Tower.

INFORMAL APPLICANT CONFERENCES

Michael Paul Bloom, Jr., applicant, appeared before the Commission with his Principal Broker Wayne Myers, to seek approval for an affiliate broker license. Mr. Bloom disclosed convictions for Unlawful Possession of Drug Paraphernalia & Possession of Marijuana More than ½ oz. with Intent to Sell in 1990 and Simple Possession of Marijuana in 1985. **Commissioner Joh made a motion to approve; seconded by Commissioner Collins; unanimous vote; motion carried.**

Dale Lorenz, applicant, appeared before the Commission with his Principal Broker Donna White, to seek approval for a timeshare salesperson license. Mr. Lorenz disclosed convictions of Forgery, Petty Theft Burglary, Burglary, Theft and Possession of Cocaine in 1988. **Commissioner Tate made a motion to approve; seconded by Commissioner Collins; unanimous vote; motion carried.**

Benjamin Garner, applicant, appeared before the Commission with his Principal Broker James Martin, to seek approval for an affiliate broker license. Mr. Garner disclosed convictions of Unlawful Delivery of a Controlled Substance in 2000. **Commissioner Flitcroft made a motion to approve; seconded by Commissioner Collins; unanimous vote; motion carried.**

LICENSEE/APPLICANT REQUESTS

John Amaefula, reapplicant, 272750, appeared before the Commission to request permission to reapply for an affiliate broker license. **Commissioner Collins made a motion to allow him to have his license as long as it is with a broker who is in "good standing", meaning no open complaints with the Commission; seconded by Commissioner Joh; opened to discussion; vote: 4 Yes, 5 No; motion failed; reopened to discussion; Commissioner Northern made a motion to reinstate the license; seconded by Commissioner Alexander for discussion; opened to discussion; vote: 3 Yes, 6 No; motion failed. Commissioner Alexander made a motion to issue a Consent Order against Mr. Amaefula's Principal Broker with a Civil Penalty of \$5,000.00 for five violations at**

\$1,000.00 a piece; Commissioner Alexander withdrew his motion; Commissioner Flitcroft made a motion to approve his request to reapply if he works for another broker in the Memphis area; motion failed for lack of a second; Commissioner Northern made a motion to defer any decision regarding Mr. Amaefula until later in the meeting; seconded by Commissioner Joh; unanimous vote; motion carried.

EXECUTIVE DIRECTOR'S REPORT, EVE MAXWELL, EXECUTIVE DIRECTOR

Ms. Maxwell presented the following information to the Commission for review:

- **Complaint Statistics Report (Exhibit 4)** – TREC has a total of **454** open complaints. Two of the 454 open complaints were staff generated Agreed Citations and 23 are complaints against Principal Brokers pursuant to Policy # 07-002 [Errors & Omissions Insurance]. There are 16 new complaints since the May meeting. One of those 16 was referred to another agency. There are 442 complaints in the legal department and 12 open complaints in the TREC office awaiting response. The total number of closed complaints for the current Fiscal Year 2007-2008 is 246. Total Civil Penalties paid in May were \$30,242.00.
- **Licensing Statistics** – Ms. Maxwell presented statistics (**Exhibit 5**) to the Commission on real estate licenses approved in 2008 and the number of licensees as of May 30, 2008.
- **Move of TREC's Administrative Offices** – Ms. Maxwell explained some of the logistics of the upcoming move and addressed the concerns of the Commissioners.
- **Completed and Upcoming Educational Seminars** – Ms. Maxwell reported on previously completed educational seminars and advised the Commission of upcoming events.

COMMISSIONER REPORTS

Commissioner Joh, Commissioner Flitcroft, Commissioner Collins, Commissioner Tate, Commissioner Alexander, Chairman Haynes, Vice-Chairman Stephenson, Commissioner Cunningham and Commissioner Northern gave reports on issues of concern to them and the Commission.

The Commission returned to the request of **John Amaefula, applicant & former licensee, 272750**. Mr. Amaefula requested permission to apply for an affiliate broker license. **Commissioner Joh made a motion to approve Mr. Amaefula's request to reapply for an affiliate broker license; seconded by Commissioner Tate; opened to discussion; Commissioner Flitcroft made an amendment to the motion to include that Mr. Amaefula must affiliate with a different Principal Broker than his current Principal Broker; seconded by Commissioner Alexander; vote: 6 yes, 2 no; motion carried; on the vote for motion as amended to allow Mr. Amaefula to reapply for an affiliate broker license;**

vote: 3 yes, 6 no; motion as amended failed; reopened to discussion; Commissioner Cunningham made a motion to approve Mr. Amaefula's affiliate broker license; however, the new Principal broker must be made aware of Mr. Amaefula's past licensing & disciplinary history and the Commission's reservations and concerns. Furthermore, the Principal Broker will be advised that he will be additionally responsible for Mr. Amaefula's future actions; seconded by Commissioner Joh; opened to discussion; Commissioner Alexander made an amendment to the motion requiring the Principal Broker be made aware his own complaint is still unresolved; seconded by Commissioner Northern; opened to discussion; on the vote on the amendment; unanimous vote; motion carried; on the motion as amended; unanimous vote; motion carried.

Chairman Haynes recessed the meeting Wednesday, June 4, 2008 at 4:01 p.m.

TENNESSEE REAL ESTATE COMMISSION Thursday, June 5, 2008

The Tennessee Real Estate Commission reconvened on June 5, 2008 at 9:19 a.m., in Room 160, Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee. **The following Commission Members were present: Chairman Charles Haynes, Vice Chairman William "Bear" Stephenson, Commissioner Valerie Joh, Commissioner David Flitcroft, Commissioner Grover Collins, Commissioner Carol Tate, Commissioner Wendell Alexander, Commissioner Gary Cunningham and Commissioner Isaac Northern. Others Present: Eve Maxwell, Executive Director, Kathryn Wiseman, Assistant General Counsel, and Kelly McDermott, Administrative Secretary.**

Buzz Steele, Director of Marketing & Research, Tennessee Association of Realtors, reported (**Exhibit 6**) to the Commission on TAR's "Transaction Desk" courses deferred for approval at the last Commission meeting.

EDUCATION REPORT, DR. KATHY RIGGS, EDUCATION DIRECTOR

- Dr. Riggs presented **Courses for Commission Evaluation (Exhibit 7). Commissioner Northern made a motion to approve the "Courses Presented for Commission Evaluation"; seconded by Vice-Chairman Stephenson; Unanimous Vote; Motion Carried.**
- Dr. Riggs presented the **Course Requiring Discussion**, "Sales Comparison Fundamentals". **Commissioner Collins made a motion to not approve the course; seconded by Commissioner Flitcroft; opened to discussion; vote: 7 yes, 1 no; motion carried.**
- Dr. Riggs presented the following **Courses Deferred from Last Month**, "Risk Reduction Using Transaction Desk", "The DNA of a Sales Agent", "What Every Licensee Should Know About the Home Inspection Process", and the following three courses taught by TAR, "TransactionDesk- Basic Training", "Advanced Training – Improving Customer Service by Using TransactionDesk", and "Train

the Trainer – Improving Customer Service by Using TransactionDesk.” Commissioner Collins made a motion to defer the course “What Every Licensee Should Know About the Home Inspection Process” until Dr. Riggs can determine if the course is an approved course of the Home Inspection division; seconded by Commissioner Alexander; unanimous vote; motion carried. Commissioner Joh made a motion to approve the course, “TransactionDesk – Basic Training”; seconded by Vice-Chairman Stephenson; no vote; opened to discussion; Commissioner Collins made a motion to defer; seconded by Commissioner Flitcroft; opened to discussion; Commissioner Collins withdrew his motion to defer; Commissioner Flitcroft withdrew his second; Commissioner Collins made a motion to approve the three TAR classes, “TransactionDesk- Basic Training”, “Advanced Training – Improving Customer Service by Using TransactionDesk”, and “Train the Trainer – Improving Customer Service by Using TransactionDesk.” as long as the instructor meets the criteria for instruction set out by TREC rule; seconded by Commissioner Flitcroft; opened to discussion; Commissioner Joh made an amendment to the motion to also approve the class “Risk Reduction Using Transaction Desk” taught by the Chattanooga Association of Realtors; seconded by Commissioner Northern; vote on amendment: 4 yes, 5 no; amendment failed; vote on original motion to approve the three TAR TransactionDesk courses: unanimous vote; motion carried. Commissioner Northern moved to approve the course “Risk Reduction Using Transaction Desk” taught by the Chattanooga Association of Realtors; seconded by Commissioner Tate; unanimous vote; motion carried. There was no vote held regarding approval of the course, “The DNA of a Sales Agent”.

- Dr. Riggs presented the Commission with research and reports on distance learning for pre-licensing courses, possible change in hours for TREC Core Course and pre-licensing instructor recertification.

DISCUSSION OF POSSIBLE CHANGES TO LICENSEE EDUCATION

Mr. Jim Gibbs, owner of the Career Institute, addressed the Commission with his views on proposed changes to the education of licensees.

Chuck Padgett, owner of Clarksville Real Estate School, addressed the Commission with his views on proposed changes to the education of licensees.

Mr. J.A. Bucy, Director of Governmental Affairs, Tennessee Association of Realtors, Christie Wilson, past President of GNAR and current Chairperson of TAR’s Governmental Affairs Committee, and Pug Scoville, TAR Director of Education and Communication and Russ Farrar, Legal Counsel for TAR addressed the Commission regarding the following proposed changes to licensee education:

- Core Course requirements be extended from 4 to 6 hours (of the 16 hours of mandatory Continuing Education), and that this 6-hour course be permanently devoted to Contracts and TN Agency Law instruction.
- Only live, classroom courses be approved for pre-licensing education.
- Instructors teaching a TREC-approved pre-licensing course, Core Course, or Continuing Education course in Contracts and/or Agency Law successfully complete an approved and tested 8-hour Instructor Certification Course to demonstrate their competency in these two subject areas, at least every two years.

There was a question and answer period between the Commissioners and the representatives of the Tennessee Association of Realtors.

Chairman Haynes asked Commissioner Collins to chair an education committee and choose two other Commissioners to also join the committee for the purpose of discussing the potential changes to licensee education. Commissioner Collins accepted.

Kathryn Wiseman, Assistant General Counsel, presented the following cases deferred the previous day.

- **6) 2007060751 – Commissioner Collins made a motion to dismiss; seconded by Vice-Chairman Stephenson; unanimous vote; motion carried.**
- **15) 2007052511 – Commissioner Tate had previously reviewed the complaint and recommended dismissal. Commissioner Collins made a motion to dismiss; seconded by Commissioner Flitcroft; vote: 7 yes, 0 no; Commissioner Tate abstained; motion carried.**

Ms. Wiseman advised the Commission she would represent case number 2006038561 at the next Commission meeting.

Comments from Attendees

Chairman Haynes called for comments from the attendees.

Licensees who attended the Commission meeting in order to obtain continuing education credits appeared before the Commission and gave statements regarding what they had learned from the meeting.

Chairman Haynes adjourned the meeting Thursday, June 5, 2008 at 12:08 p.m.